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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/234,559 | 01/20/1999 | SUNDARAM RAMAKESAVAN | INTL-0170-US | 5930 |

7590 03/07/2005

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| EXAMINER |
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KOSTAK, VICTOR R

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| ART UNIT | PAPER NUMBER |
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2614

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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Commissioner for Patents

see attachment

Victor R. Kostak
Primary Examiner
Art Unit: 2614

Art Unit: 2614

Pursuant to the remand under 37 CFR 41.50(a)(1) by the Board of Patent Appeals and Interferences on 11/03/04 **for further consideration of a rejection**, a supplemental Examiner's Answer under 37 CFR 41.50(a)(2) is set forth below:

The examiner first off points out that the Examiner's Answer of 08/09/04 remains incorporated herein.

Addressing the issue in question, appellant argues that the examiner relies on inherency to account for the feature of a controller that automatically requests a code to enable video play to resumed at a later time. Appellant argues that if Dan (or Saward) intended to disclose that feature, they would have expressly. As is pointed out in the aforesaid Examiner's Answer, Dan describes his system in general terms comprising basic hardware (noting Fig. 1 depicting the sole system arrangement and in basic terms), rather than exhaustively or in a low-level manner.

However, that feature is in fact inherent.

Dan uses data structures (which constitute codes) to communicate with the A/V program server for prompting various standard VCR-type functions, such as pause and resume play, for each and every client associated with the server. Since the server communicates with the user via communication network 20 using these codes, it interprets these codes and accordingly makes decisions based on the codes. The system *inherently* processes the codes it receives to carry out the pause, play, resume, or other requests, as it in turn selects or requests an appropriate action.

The majority of Dan's disclosure comprises flow charts depicting the respective VCR-type operations, including resume requests (Fig. 5). The flow charts make evident the internal operation of the server as to how it determines the appropriate decision in enabling the A/V

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stream for playback. This is done for each and every user connected with that server. Would Dan have used a manual procedure, manual operation would clearly be highly inferior and extremely difficult – if not impossible- in reading the codes received by the server from each and every user, as to enable subsequent A/V programming in a desirable manner.

Appellant is correct that the word “automatic” is not recited. That does not dismiss the fact that the flow chart depicts an automatic operation. As was pointed out in the aforesaid Examiner Answer, col. 3 line 39+ of Dan describes the operation sequence involving the steps preparing the server to resume play. The server processes the codes it receives and accordingly carries out the decision making in an automatic manner, as shown in Fig. 5 and in the corresponding text. The internal controller receives the request code to enable subsequent resumption of play in coded form (for example, indicated by steps 500 and 510 in Fig. 5). Figs. 6-8 depict the codes which were automatically (at least) requested if not first formed from internal storage - including hierarchical processes to optimize playback, for eventual playback.

The appellant must within **TWO MONTHS** from the date of the supplemental examiner’s answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the rejection for which the Board has remanded the proceeding:

(1) **Reopen prosecution.** Request that prosecution be reopened before the examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit, or other evidence. Any amendment, affidavit, or other evidence must be relevant to the issues set forth in the remand or

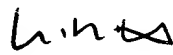
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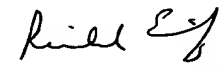
raised in the supplemental examiner's answer. Any request that prosecution be reopened will be treated as a request to withdraw the appeal. See 37 CFR 41.50(a)(2)(i).

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. If such a reply brief is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened under 37 CFR 41.50(a)(2)(i). See 37 CFR 41.50(a)(2)(ii).

Extensions of time under 37 CFR 1.136(a) are not applicable to the **TWO MONTH** time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:


VICTOR K. KOSTAK
PRIMARY EXAMINER


REINHARD EISENZOPF
ACTING DIRECTOR
TC 2600